## United States District Court, Northern District of Illinois



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Name of Assigned Judge or Magistrate Judge		John W.	Darrah	Sitting Judge if Other than Assigned Judge					
CASE NUMBER		02 C	8976	DATE	6/10/	2003			
CASE TITLE				Taria Gordon vs. Daimler Chrysler					
			[In the following box (a) of the motion being pres	a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature resented.]					
Memorandum Opinion and Order									
DOCKET ENTRY:									
(1)	□ F	Filed motion of [ use listing in "Motion" box above.]							
(2)		Brief in support of motion due							
(3)		Answer brief to motion due Reply to answer brief due							
(4)		Ruling/Hearing on set for at							
(5)	□ s	Status hearing[held/continued to] [set for/re-set for] on set for at							
(6)	□ P	Pretrial conference[held/continued to] [set for/re-set for] on set for at							
(7)	п 🗆	Trial[set for/re-set for] on at							
(8)		[Bench/Jury trial] [Hearing] held/continued toat							
(9)		This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  ☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).							
(10)									
(11)	(11)  [For further detail see order attached to the original minute order.]								
``	<del></del>		dvised in open court.				Document		
	No notices required.				number of notices	Number			
	Notices mailed by judge's staff.					WIM 1 7 2002			
	Notified counsel by telephone.  Docketing to mail notices.					JUN 1 1 2003			
	Mail AO 450 form.  Copy to judge/magistrate judge.		<b>U.S.</b> DISTRICT COURT		docketing deputy initials				
LG .		courtroom deputy's initials	L1:8	US TIMED ED	date mailed notice	\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \			
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## UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

TARIA GORDON,	)	
Plaintiff,	)	
,	) N	o. 02 C 8976
v.	) Jı	idge John W. Darrah
	)	
DAIMLER CHRYSLER,	)	
	)	•
Defendant.	)	•

## **MEMORANDUM OPINION AND ORDER**

Plaintiff, Taria Gordon ("Gordon"), brought suit *pro se* against Defendant, Daimler Chrysler ("Chrysler"), alleging violations of Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. § 2000(e) *et seq.* and 42 U.S.C. §§ 1981 and 1983. Presently before the Court is Chrysler's Motion to Dismiss paragraph 10 of Plaintiff's Complaint, alleging violations of 42 U.S.C. § 1983.

In reviewing a motion to dismiss, the court reviews all facts alleged in the complaint and any reasonable inferences drawn therefrom in the light most favorable to the plaintiff. See Marshall-Mosby v. Corporate Receivables, Inc., 205 F.3d 323, 326 (7th Cir. 2000). Dismissal is warranted only if the plaintiff could prove no set of facts in support of her claim that would entitle her to relief. See Conley v. Gibson, 355 U.S. 41, 45-46 (1957).

A reading of the Complaint supports the following summary of the alleged conduct of the parties.

Gordon was employed by Chrysler until Chrysler terminated her employment, allegedly because of her color, race, and sex. In support of her claim, Gordon further alleges that she was singled out by Chrysler to attend behavior seminars, that abusive language was used toward her in

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team meetings, that she was occasionally sent home early, and that company records were falsified and/or revised to omit evidence of Chrysler's discriminatory acts.

Chrysler argues that Gordon's claim under 42 U.S.C. § 1983 should be dismissed. Section 1983 generally does not extend to the conduct of private individuals or corporations unless they "acted under color of state law by exercising power 'possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law." Copeland v. Northwestern Memorial Hospital, 964 F.Supp. 1225, 1238 (N.D. Ill. 1997). Where a defendant is a private party, not acting under color of state law, dismissal of a § 1983 claim against it is appropriate. Id. at 1239.

Plaintiff has not alleged that Chrysler acted under color of state law but, instead, has alleged, by checking a box on her *pro se* plaintiff's form, that Chrysler is a "state or local government agency." We take judicial notice of the fact that Chrysler is a private corporation, not a state or local government agency, and could not have acted under color of state law in terminating Gordon's employment.

Because Plaintiff could prove no set of facts to show that Chrysler was "a state or local government agency" or was exercising power under the authority of state law in terminating her employment, dismissal with prejudice of her claim under 42 U.S.C. § 1983 is appropriate. See Conley, 355 U.S. at 45-46.

Only paragraph 10 of Plaintiff's Complaint is dismissed with prejudice. Gordon may still prosecute her claims of alleged discrimination because of color, race, and sex, as appropriate under

Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §-1981.

Dated: 444 10, 2003

JOHN W. DARRAH

United States District Judge